



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0411; FRL-9968-38-Region 9]

Approval and Promulgation of Implementation Plans; Enhanced Monitoring; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of California on November 10, 1993. This SIP revision concerns the establishment of a Photochemical Assessment Monitoring System (PAMS) network in six ozone nonattainment areas within California. The EPA is taking this action under the Clean Air Act based on the conclusion that all applicable statutory and regulatory requirements related to PAMS SIP revisions have been met.

DATES: This rule is effective **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2017-0411. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed on the web site, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “**FOR**

FURTHER INFORMATION CONTACT” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, (415) 972-3959, lo.doris@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Proposed Action
- II. Public Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On August 2, 2017 (82 FR 35922), we proposed to approve a SIP revision submitted by the State of California on November 10, 1993. Herein, we refer to our proposed action on August 2, 2017, as the “proposed rule.”

In our proposed rule, we provided a discussion of the regulatory context leading to the SIP revision submitted by California on November 10, 1993. In short, the Clean Air Act (CAA or “Act”), as amended in 1990, required the EPA to designate as nonattainment, and to classify as Marginal, Moderate, Serious, Severe or Extreme, any ozone areas that were still designated nonattainment under the 1977 Act Amendments, and any other areas violating the 1-hour ozone standard, generally based on air quality monitoring data from the 1987 through 1989 period.¹ Within California, we classified six ozone nonattainment areas as Serious, Severe, or Extreme: Los Angeles-South Coast Air Basin (“South Coast”), Sacramento Metro, San Diego County, San Joaquin Valley, Southeast Desert Modified Air Quality Management Area (“Southeast Desert”)

¹ See section 107(d)(4) of the Act. See also 56 FR 56694, November 6, 1991.

and Ventura County.² Such areas were subject to many requirements, including those related to enhanced monitoring in CAA section 182(c)(1).

CAA section 182(c)(1) of the CAA required the EPA to promulgate rules for enhanced monitoring of ozone, oxides of nitrogen, and volatile organic compounds to obtain more comprehensive and representative data on ozone air pollution in areas designated nonattainment and classified as Serious, Severe or Extreme. The EPA's final PAMS regulation was promulgated on February 12, 1993 (58 FR 8452). Section 182(c)(1) also required states to submit SIP revisions providing for enhanced monitoring for such areas consistent with the PAMS regulation.

On November 10, 1993, the California Air Resources Board (CARB) submitted to the EPA a SIP revision for PAMS networks in California ("California PAMS SIP revision"). The California PAMS SIP revision consists of PAMS commitments from five California air districts with jurisdiction within the six relevant ozone nonattainment areas: the South Coast Air Quality Management District (AQMD) (for South Coast and Southeast Desert areas); Sacramento Metro AQMD (for the Sacramento Metro area); San Diego County Air Pollution Control District (APCD) (for the San Diego County area); San Joaquin Valley Unified APCD (for the San Joaquin Valley area), and Ventura County APCD (for the Ventura County area), as well as CARB Executive Orders approving the commitments, and public process documentation. The California PAMS SIP revision is intended to meet the requirements of section 182(c)(1) of the Act and to comply with the PAMS regulation, codified at 40 CFR part 58, as promulgated on February 12, 1993.

² See 56 FR 56694, November 6, 1991.

In our proposed rule, we identified the criteria we used to review the California PAMS SIP revision submittal and provided our evaluation and rationale for proposed approval. We determined that California's PAMS SIP revision meets all applicable requirements: (1) by first committing to, and then by implementing, PAMS networks as required in 40 CFR part 58; and (2) by providing the public with an opportunity to inspect the proposed network description during the public review process for the proposed SIP revision prior to forwarding the adopted version to CARB for approval and submittal to the EPA as a revision to the California SIP. As such, in our proposed rule, we proposed to approve the California PAMS SIP revision submitted by CARB on November 10, 1993, as part of the California SIP.

Please see our proposed rule for additional background information and a more detailed evaluation of the SIP revision and explanation of our basis for approval.

II. Public Comments

The EPA's proposed action on August 2, 2017, provided a 30-day public comment period ending on September 1, 2017. We received no comments on our proposed action.

III. Final Action

Under CAA section 110(k)(3) and for the reasons set forth in our proposed rule and summarized above, the EPA is taking final action to approve the California PAMS SIP revision submitted on November 10, 1993, for the following six ozone nonattainment areas in California: South Coast, Sacramento Metro, San Diego County, San Joaquin Valley, Southeast Desert, and Ventura County. We are taking this final action based on our conclusion that the California PAMS SIP revision meets all applicable requirements for enhanced ambient pollutant concentration monitoring under CAA section 182(c)(1) and our PAMS regulation.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves a state plan as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after the date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 15, 2017.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F - California

2. Section 52.220 is amended by adding paragraph (c)(495) to read as follows:

§ 52.220 Identification of plan - in part.

* * * * *

(c) * * *

(495) The following plan was submitted on November 10, 1993 by the Governor's designee.

(i) [Reserved]

(ii) Additional material.

(A) California Air Resources Board.

(L) Letter and attachments from James D. Boyd, Executive Officer, California Air Resources Board, to Felicia Marcus, Regional Administrator, EPA Region IX, November 10, 1993.

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[FR Doc. 2017-20722 Filed: 9/27/2017 8:45 am; Publication Date: 9/28/2017]